

Secondary Case Study



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Freedom of Press: Summary

The First Amendment guarantees freedom of the press, but the limits of that freedom take into account the need for some privacy and government exclusions. In some countries, such as Russia under Vladimir Putin, the freedom of the press is minimal, and media outlets refrain from criticizing the government. This was also the case under Saddam Hussein's Iraq, where, after years of repression, newspapers are finally free to speak out for against government officials and policies. In the U.S., however, many think that the freedom of the press has gone too far. Recent cases involving leaked transcripts of Congressional testimony and reporters who refuse to disclose sources have raised legal questions about the limits on freedom of the press.

Bush speech makes democracy central to Russia dialogue

Calls on Syria to end Lebanon occupation

By Judy Keen
USA TODAY

BRUSSELS — President Bush, who will meet this week with President Vladimir Putin, insisted Monday that Russia “renew a commitment to democracy and

the rule of law.”

In a speech billed as the centerpiece of a five-day visit to Europe, Bush also sought to end tension over the war in Iraq.

“As past debates fade, as great duties become clear, let us begin a new era of trans-Atlantic unity,” he told several hundred diplomats and scholars at Concert Noble, an elegant hall built in 1873.

In his introduction, Belgian Prime Minister Guy Verhofstadt said, “It makes little sense to continue arguing about

who was right and who was wrong.”

Later, Bush met with Jacques Chirac and hosted the French president at dinner. Chirac, who opposed the war, used conciliatory language. The dispute “in no way affects or in no way undermines the bedrock of our relations.”

NATO was preparing an agreement, scheduled to be announced today, in which all 26 NATO members — including France — would offer money, equipment, training or troops for Iraq.

Bush and Chirac issued a statement

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condemning the assassination of former Lebanese prime minister Rafik Hariri and supporting "a free, independent and democratic Lebanon."

In his speech, Bush used tough language:

► "We recognize that reform will not happen overnight" in Russia, Bush said in his most emphatic rebuke yet of Putin. "We must always remind Russia, however, that our alliance stands for a free press, a vital opposition, the sharing of power and the rule of law." Putin has put many TV and radio stations under state control, pressured opposition parties and limited the power of regional governors.

Bush's words "put democracy at the heart of dialogue with Russia," said Lee Feinstein, a foreign policy analyst at the private, non-partisan Council on Foreign Relations. "This is a significant shift from first-term policies, where the war against terror was at the heart of the dialogue."

Whether the change creates new strains between Bush and Putin may become evident when they meet Thursday in Bratislava, Slovakia, Feinstein said.

► "Syria must . . . end its occupation of Lebanon," Bush said. The administration suspects Syria of a role in the assassination of Hariri on Feb. 14. Bush has recalled the U.S. ambassador, Margaret Scobey, from Syria.

► In his most explicit definition of a Palestinian state that is contiguous in the West Bank and not a patchwork, Bush said, "A state of scattered territories will not work." He urged Israel to freeze the building of settlements in Palestinian territory. In 2002, Bush became the first U.S. president to endorse a Palestinian state.

Bush did not take any responsibility for European rancor over the Iraq war, but he addressed dismay over his decision not to endorse the Kyoto Protocol, which limits emissions most scientists say aggravate global warming. "Our alliance is determined to show good stewardship of the Earth, and that requires addressing the serious, long-term challenge of global climate change."

As he did in his inaugural address last month, Bush described expanding

democracy and ending tyranny as the best way to curb terrorism and increase prosperity.

"We must act wisely and deliberately in the face of complex challenges," he said. "And seizing this moment also requires cooperation, because when Europe and America stand together, no problem can stand against us."

Bush meets today with British Prime Minister Tony Blair and European Union and NATO leaders.

AS SEEN IN USA TODAY NEWS SECTION, FRIDAY, MARCH 18, 2005, PAGE 6A

Iraqi press pokes fun at politics

Headlines show new freedom to skewer leaders after Saddam

By Elliot Blair Smith
USA TODAY

BAGHDAD — Iraq's National Assembly adjourned within about 90 minutes of opening to great fanfare Wednesday.

A day later, Iraqi newspapers poked fun at what many of the new publications called a hasty retreat of the country's political leaders after they had

heralded a new era of democracy.

Al-Sabah, one of Iraq's leading newspapers, featured a photograph of puffs of smoke rising from the mortar blasts outside the assembly during its opening ceremonies. The tongue-in-cheek headline: "They met, but they did not agree to meet again."

Such headlines would not have been tolerated under Saddam Hussein. Their brashness — in bold type — is among the surest signs of the country's new freedoms.

Under Saddam, the handful of newspapers in Iraq were tightly controlled.

Now there are nearly 200

newspapers in the country, reflecting a broad spectrum of viewpoints. Most are political and opinionated.

Al-Mutamar, a mouthpiece of the Iraqi National Congress, an exile group, stated sarcastically, "The National Assembly sums up Iraqi people's ambitions in 90 minutes."

The newspaper Baghdad, which supports interim Prime Minister Ayad Allawi, praised his opening ceremony remarks, saying, "Allawi calls to protect his achievements and promote them."

In the guarded, dimly lit offices of Al-Sabah, which means "The Morning," Editor

in Chief Mohammad al-Shaboot, 56, chuckled at the provocative headline he had written. It highlighted the appearance that newly elected deputies seemed none-too-hurried to return to deliberations in the capital's "Green Zone," site of numerous insurgent attacks.

Politicians and government officials have legitimate reasons to worry. Many have been targeted by insurgents.

Al-Sabah was funded with some of a \$96 million U.S. grant in early 2004 that provided seed capital to develop the Iraqi media.

"What we need," said al-Shaboot, an Iraqi exile in

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Britain for 27 years before returning in June 2003, "is a serious assembly, independent media, civil society organizations and an active government. These are the four pillars of a democratic state."

The National Assembly met Wednesday for the first time since elections Jan. 30. It adjourned so Shiite and Kurdish political leaders, who represent the leading vote-getters, could continue

negotiations to form a government.

Al-Shaboot says that in light of huge voter turnout in January — about 8 million Iraqis went to the polls — he feels "sorry for those who risked their lives to vote for this farcical assembly."

Some of the public shares his frustration and are viewing their country's new politicians with skepticism.

"The National Assembly creates an illusion of feeling

secure and having a government, but in reality, we don't have it," said Andre Albert, an unemployed 20-year-old from Iraq's Christian minority. "Deep down, all Iraqis are happy (the assembly met), but they don't expect much. They are always talking with no results on the ground."

Nevertheless, that's a good story for Al-Sabah.

Indeed, its editor relishes telling how conservative

religious leaders were outraged by the photograph of sultry Lebanese singer Nancy Ajram he recently published. It caused him to limit newspaper truck routes in fundamentalist areas. But, he says, his 53,000-circulation newspaper — priced at 16 cents a copy — sells out daily.

Contributing: Jill Carroll in Baghdad

AS SEEN IN USA TODAY LIFE SECTION, MONDAY, JANUARY 31, 2005, PAGE 6D

U.S. students say press freedoms go too far

Survey reveals some surprising attitudes

By Greg Toppo
USA TODAY

One in three U.S. high school students say the press ought to be more restricted, and even more say the government should approve newspaper stories before readers see them, according to a survey being released today.

The survey of 112,003 students finds that 36% believe newspapers should get "government approval" of stories before publishing; 51% say they should be able to publish freely; 13% have no opinion.

Asked whether the press enjoys "too much freedom," not enough or about the right amount, 32% say "too much," and 37% say it has the right amount. Ten percent say it has too little.

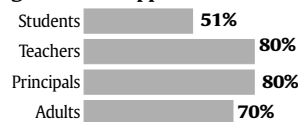
The survey of First Amendment rights was commissioned by the John S. and James L. Knight Foundation and conducted last

Freedom on our minds

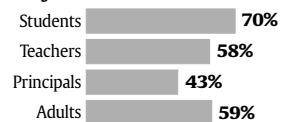
Students are less likely than adults to think newspapers should be allowed to publish freely without government approval of stories — but more likely to think musicians should be allowed to sing songs with lyrics others may find offensive.

Do you agree or disagree that ...
(Percentage who agree with each statement)

Newspapers should be allowed to publish freely without government approval of stories:



Musicians should be allowed to sing songs with lyrics others may find offensive:



Source: Knight Foundation, Freedom Forum

By Marcy E. Mullins, USA TODAY

spring by the University of Connecticut. It also questioned 327 principals and 7,889 teachers.

The findings aren't surprising to Jack Dvorak, director of the High School Journalism Institute at Indiana University in Bloomington. "Even professional journalists are often unaware of a lot of the freedoms that might be associated with the First Amendment," he says.

The survey "confirms what a lot of people who are interested in this area have known for a long time," he says: Kids aren't learning enough about the First Amendment in history, civics

or English classes. It also tracks closely with recent findings of adults' attitudes.

"It's part of our Constitution, so this should be part of a formal education," says Dvorak, who has worked with student journalists since 1968.

Although a large majority of students surveyed say musicians and others should be allowed to express "unpopular opinions," 74% say people shouldn't be able to burn or deface an American flag as a political statement; 75% mistakenly believe it is illegal.

The U.S. Supreme Court in 1989 ruled that burning or defacing a flag is protected

free speech. Congress has debated flag-burning amendments regularly since then; none has passed both the House and Senate.

Derek Springer, a first-year student at Ivy Tech State College in Muncie, Ind., credits his journalism adviser at Muncie Central High School with teaching students about the First Amendment, which guarantees freedom of speech, press and religion.

Last year, Springer led a group of student journalists who exposed payments a local basketball coach made to players for such things as attending practices and blocking shots. The newspaper also questioned requirements that students register their cars with the school to get parking passes.

Because they studied the First Amendment, he says, "we know that we can publish our opinion, and that we might be scrutinized, but we know we didn't do anything wrong."

Prosecutors, media remain at odds

Leaking of grand jury testimony has both sides defending their rights

By Mark Memmott
USA TODAY

The *San Francisco Chronicle's* reporting on grand jury testimony by baseball stars Barry Bonds and Jason Giambi is expected to set off another in a series of confrontations between federal prosecutors and journalists.

At issue: Whether two *Chronicle* reporters must reveal the source or sources who might have broken federal law by showing the journalists transcripts of Bonds' and Giambi's secret statements to a grand jury. That San Francisco-based jury is investigating allegations that a California company, BALCO, illegally supplied steroids to top athletes.

At stake in the looming government-media faceoff, say journalists and media advocates: a fundamental right guaranteed by the First Amendment to the U.S. Constitution — freedom of the press to publish information without government interference.

The *Chronicle* says it stands ready to defend reporters Mark Fainaru-Wada and Lance Williams against any attempts to force them to name their source or sources.

"Our responsibility in the media and the press is not to enforce the government's secrecy regulations," says Phil Bronstein, the *Chronicle's* editor. "Our job is to be a check and balance on the power of government, to find and provide as much accurate information as we can so that the public can make up its own mind on issues of importance."

At least 10 other reporters from other U.S. media organizations, from *The New York Times* to Providence TV station WJAR, already are the targets

of prosecutors' attempts to force them to reveal confidential sources. It's not illegal to publish sealed grand jury testimony but reporters are at risk for being in contempt of court for not divulging their sources, who might have violated the law.

Paul McMasters, ombudsman at the non-profit First Amendment Center, says the federal government is increasingly aggressive about going after reporters to reveal their sources. He worries about the effect that will have.

"People have to be able to go directly to the press with information they feel has been hidden and secreted," McMasters says.

"These cases can have a chilling effect on all that."

The issue on the "other side," former Justice Department official and current Washington attorney Victoria Toensing says, is the government's interest in investigating a possible crime — in this case the leaking of the testimonies. "I'm greatly appreciative of the reporter's role," Toensing says. "But the Supreme Court has said the government's responsibility to seek out criminals can trump a source's privilege to confidentiality."

While many states have "shield laws" that protect reporters from being prosecuted for refusing to reveal their sources, there is no such law for federal cases like that involving the steroids investigation. Sen. Christopher Dodd, D-Conn., introduced legislation late last month that would create a federal shield law. Congress won't begin to consider the topic until next year.

Chronicle stories related to the steroids investigation this year

prompted the office of the U.S. Attorney in San Francisco to send four letters to the newspaper, requesting that it identify the source or sources of grand jury leaks. Similar letters were sent to the *San Jose Mercury News* after stories it published also contained confidential grand jury information. Both newspapers declined to name names.

But stories in Thursday's and Friday's editions of the *Chronicle*, quoting from what the newspaper said were transcripts of Giambi's and Bonds' testimonies, have escalated the tension between the newspaper and prosecutors.

Kevin Ryan, the U.S. attorney in San Francisco, has requested the Justice Department investigate the leak. "Violations of grand jury secrecy rules will not be tolerated," Ryan said in a statement. The Justice Department is considering his request.

By law, testimony and evidence presented to federal grand juries are supposed to be carefully guarded. Witnesses — who appear alone, without even their own lawyers — are not given transcripts of their own appearances. Copies of testimony and other materials are not given to defendants until after they are indicted, says Frank Tuerkheimer, a law professor at the University of Wisconsin and former assistant U.S. Attorney in the Southern District of New York. In general, the only persons with access to the information are employees of the court, the U.S. Attorney's office and the lawyers representing those who've been indicted.

There have been four indictments in the BALCO case (neither Bonds nor

AS SEEN IN USA TODAY SPORTS SECTION, MONDAY, DECEMBER 6, 2004, PAGE 11C

Giambi has been charged with any crime). So the potential sources of the information in the *Chronicle's* stories do include defendants' lawyers.

Lucy Dalglish, executive director of the non-profit Reporters Committee for Freedom of the Press, predicts the Justice Department will go after the *Chronicle* reporters after it has

interrogated all those who had legal access to the grand jury documents. "They'll have all those people sign waivers," Dalglish says, "stating that, 'If I ever talked to a reporter, I dissolve any agreement to keep my name confidential.' But of course, everybody will sign those statements because if you don't it will immediately be

assumed you were the source. They're under duress. So the reporters will still say, 'No, I'm sorry I can't tell you who's the source.'"

AS SEEN IN USA TODAY NEWS SECTION, THURSDAY, JULY 7, 2005, PAGE 5A

'Time' reporter to testify; 'N.Y. Times' reporter jailed

Cooper will reveal source to grand jury

By Peter Johnson
and Mark Memmott
USA TODAY

A showdown between the press and the government ended Wednesday as one reporter avoided jail by agreeing to testify before a grand jury investigating the leak of an undercover CIA officer's identity, and another who refused was immediately jailed.

In a surprise move, *Time* reporter Matt Cooper told U.S. District Judge Thomas Hogan that just hours before the hearing he received "express personal consent" from his confidential source to reveal his identity. "Consequently, I am prepared to testify," he said.

Hogan sentenced *New York Times* reporter Judith Miller to jail until the grand jury's term ends in October. "There is still a realistic possibility that confinement might cause her to testify," he said.

Miller told Hogan that she had no choice but to protect her source in a case that has drawn nationwide attention and renewed debate over a common practice by reporters. "If journalists

cannot be trusted to keep confidences, then journalists cannot function and there cannot be a free press," Miller said.

U.S. Attorney Patrick Fitzgerald said, "We can't have 50,000 journalists" deciding when to reveal sources. "We are trying to get to the bottom of whether a crime was committed and by whom."

Outside the court building in Washington, Cooper refused to disclose his source's name, saying he had promised to reveal it solely before the grand jury. Looking tired and grim, Cooper rejected one reporter's offer of "congratulations."

"There are no congratulations. This is a sad day," Cooper said.

He said he would not have agreed to testify about his source if that person had not given the OK. Waivers of confidentiality obtained by prosecutors from suspected sources "aren't worth the paper they're printed on" because those sources may have been coerced into signing them, Cooper said.

Fitzgerald has been trying to learn who in the Bush administration leaked officer

Valerie Plame's identity in 2003 to syndicated columnist Robert Novak, who has refused to discuss the investigation. The disclosure, which came a few days after her husband, former ambassador Joseph Wilson, criticized President Bush's reasons for invading Iraq in a *New York Times* article, was viewed as retaliation.

Cooper, citing sources, wrote about the case after Novak. Miller reported but never wrote a story.

In a statement, Wilson blamed Miller's jailing on a "culture of unaccountability that infects the Bush White House."

This case is not a good test for protecting sources, "because the issue is one involving a genuine full-blown secret," Plame's identity, said Harvard media analyst Alex Jones. "But the principal of a reporter keeping her word about keeping a source confidential is something that can apply whether the person is giving the information for the best purposes or the worst purposes."

Lucy Dalglish of the Reporters Committee for Freedom of the Press said that every case involving reporters' confidentiality "can be made to look unseemly.

Sometimes in the upper echelons of government people lie, and sometimes they tell the truth. Reporters oftentimes don't get to pick the story they stumble across."

More than 20 reporters have been jailed for refusing to identify sources in the past three decades, according to the group.

New York Times Executive Editor Bill Keller called Miller's sentence a "chilling conclusion" to the case. He said the ruling might send a "chill up the spine" of whistleblowers who might want to come forward with evidence of wrongdoing.

If there is a silver lining, Keller said, "it is that some people who are witnesses to wrongdoing will understand the lengths to which some reporters are willing to go" to protect confidential sources.

Constitutional lawyer Bruce Fein said Miller and Cooper have no right to confidentiality. "The privilege is being invoked to prevent the public from knowing of a government scoundrel. I never knew that the public's right to know includes the public's right to be ignorant of who in the government is trying to abuse their authority to abuse a presidential critic."

DISCUSSION QUESTIONS

1. Read the article presenting the results of the poll of U.S. students. Do you agree with the students who believe that the press should get government approval of articles? Do you think that the press has too much freedom? Explain your views.
2. In cases such as the testimony of the baseball players Barry Bonds and Jason Giambi, do you think that the public's right to know is more important than the Congressional desire to keep testimony secret? Why or why not?
3. How is the establishment of many newspapers in Iraq affecting the development of democracy?
4. What are some of the risks that Putin faces with his decision to control the media?
5. Do you think that reporters should be forced to reveal their sources in a court case or should they be free to retain confidentiality? Why?

FUTURE IMPLICATIONS

1. What do you think the impact of the Internet will be in countries where freedom of the press is limited? What are the implications for democracy?
2. Do you think that the U.S. will have MORE or LESS freedom of the press in 25 years? Explain your ideas.

ACTIVITY EXTENSIONS

1. **Class Debate:** Has freedom of the press gone too far?

Divide the class into two groups, on each side of the above question. Ask groups to list as many reasons supporting their side as possible. Have each side list their reasons, then meet again as a group to rebut the reasons of the other group. Score groups on the the quantity and quality of their justifications.

2. **Survey your classmates:** Using the questions from the student survey develop a survey for your classmates on:
 - a) the U.S. media
 - b) your school newspaper

ADDITIONAL RESOURCES

The Freedom Forum/First Amendment Publications
www.freedomforum.org

The Future of the First Amendment
www.firstamendmentfuture.org

The First Amendment Center
www.firstamendmentcenter.org

John S. and James L. Knight Foundation
www.knightfdn.org